

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

EDWARD GARCIA,

Defendant.

Case No. CR03-125L

ORDER REQUESTING REPLY TO
GOVERNMENT'S MOTION FOR
RECONSIDERATION OF ORDER
GRANTING MOTION TO COMPEL

This matter comes before the Court on the “Government’s Motion for Reconsideration of Order Compel [sic] Disclosure of Confidential Informant” (Dkt. # 83). As defendant notes in his reply brief (Dkt. # 80) in support of “Defendant Garcia’s Motion to Reopen Motion to Compel Disclosure of Informants” (Dkt. # 37), defendant first must make a “threshold minimal showing” before the Court balances the competing interests of the government and the defendant in the disclosure of the identities of the confidential informants. It is clear now, from the government’s instant motion before the Court, that the government perceived that only this first prong of a two-prong test was under consideration. U.S. v. Spires, 3 F.3d 1234, 1238 (9th Cir. 1993) (explaining relevant procedure). The government focused the attention of its “Response to Defendant’s Motion to Compel Disclosure of Confidential Informant” (Dkt. # 75) on only the issue of the threshold demonstration. In its subsequent briefing, the instant motion for

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1 reconsideration, the government provides not-insubstantial support for the argument that, even if
2 defendant is perceived to have made a threshold showing of relevance, the balance of the
3 interests continues to weigh in favor of nondisclosure. Consequently, it is appropriate that
4 defendant be given the opportunity to respond.

5 IT IS HEREBY ORDERED that defendant provide a response to the government's
6 motion for reconsideration that details "the extent to which disclosure [of the identities of the
7 confidential informants] would be relevant and helpful to the defendant's case." U.S. v. Spires,
8 3 F.3d 1234, 1238 (9th Cir. 1993). Defendant also should note that the Seventh Circuit case
9 featured in its previous motion and reply, U.S. v. Tucker, 552 F.2d 202, 208-09 (7th Cir. 1977),
10 involved a confidential informant whose testimony would be instrumental to proving or
11 disproving the alibi of the defendant. Defendant is urged to relate with greater specificity how
12 he will benefit from what appears to be further incriminating testimony from the confidential
13 informants. The response is due ten judicial days from the date of this order. Pursuant to Local
14 Rule CR7(h)(3), the government is not authorized to submit a further reply.

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16 DATED this 29th day of September, 2005.

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20 Robert S. Lasnik
21 United States District Judge
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